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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/829,126      | 04/09/2001  | Nicholas Bennett     | 3182/FBR            | 7244             |

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EXAMINER

COBURN, CORBETT B

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/829,126

Applicant(s)

BENNETT, NICHOLAS

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-12 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 8 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Gaming Machine With A Changing Graphical Bonus Amount Indicator That May Be Manipulated By A Player Activation Of A Control Device.

### *Drawings*

2. The drawings are objected to because of the issues noted on the attached Notice of Draftsperson's Patent Drawing Review. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 15 & 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Weiss et al. (US Patent Number 6,142,873).

**Claim 1:** Weiss teaches a gaming machine (Fig 1) having a display means (6) and a game control means (64) arranged to control images displayed on the

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display. The game control means being arranged to play a game wherein one or more random events are caused to be displayed on the display means (i.e., the reels spin) and, if a predefined winning event results, the machine awards a prize.

(Fig 2) The gaming machine is characterized in that it includes a feature of a changing representation of the awarding of the prize (20) and a player-operable control device (12) which, upon manipulation by a player, controls an outcome of the representation to determine an amount awarded to the player. (Fig 2)

**Claim 2:** Fig 1, 11 is a representation of a win meter.

**Claim 3:** Fig 1, 11 is a graphical display representing a changing award.

**Claim 4:** The amount represented by the graphical display (11), where it is stopped by the player, is awarded to the player as the prize. (Col 2, 1-6)

**Claim 15:** The control device is an actuator (50) operable by the player to stop changes in the representation. (Col 3, 46-51)

**Claim 16:** Weiss teaches the feature is triggered upon the occurrence of a trigger condition arising in a base game. (Abstract)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7, 9-12 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss as applied to claim 4 in view of Huard et al. (US Patent Number 5,743,800).

**Claim 5:** Weiss discloses a threshold value such that when that threshold value is reached by the graphical display without having being stopped by the player, a losing outcome results. (Fig 2, Col 1, 62 – Col 2, 17) Weiss does not, however, specifically state that the game controller selects the threshold value. Huard teaches the game controller randomly selecting the bonus amount. (Abstract) The bonus amount is equivalent to the threshold – it represents the maximum bonus amount available. Randomly determining the bonus amount (threshold) increases the excitement of the game. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the game controller select the threshold in order to increase the excitement of the game.

**Claims 6, 11:** Weiss teaches that when the graphical display (11) commences changing (i.e., the bonus accumulates), the player is able to stop the graphical display at any time by means of the control device – the quit/retire button (50). The arrangement is such that, if the graphical display reaches the threshold value, the losing outcome results but, if the player operates the control device (i.e., retires) before the threshold value is reached, the player may be awarded the amount represented by the graphical display at the time that the control device is operated. (Fig 2, Col 1, 62 – Col 2, 17)

**Claims 7, 12:** The rate at which Weiss' graphical display (11) changes is variable and is set by the game control means. (Col 3, 51-55) In this case, the graphical display (11) changes by adding the variable amount displayed on reel (18). This amount is determined by the control means.

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**Claims 9, 14:** Weiss always displays the threshold. Therefore, should the player stop the representation before the threshold value is reached, the game control means causes the selected threshold value to be displayed so that the player can ascertain when the losing outcome would have resulted.

**Claim 10:** Huard teaches a random number being selected as the threshold value (i.e., maximum prize amount) by the game control means, the random number falling in a predetermined range from one to a highest possible value. (Fig 3)

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss as applied to claim 1 above, and further in view of Walker et al. (US Patent Number 5,779,549).

**Claim 17:** Weiss teaches the invention substantially as claimed, but does not teach the feature being played as a tournament across a bank of linked gaming machines. Walker teaches playing a tournament across a bank of linked gaming machines. (Abstract) Slot machine tournaments increase the excitement of the game due to player competition. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the feature being played as a tournament across a bank of linked gaming machines in order to increase the excitement of the game due to player competition.

***Allowable Subject Matter***

8. Claims 8 & 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The following is a statement of reasons for the indication of allowable subject matter: The prior art, taken alone or in combination, fails to teach or suggest the game controller causing a losing outcome to result even if the player operates the control device before the threshold value is reached.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

| Reference Name | US Patent Number | Applicability                      |
|----------------|------------------|------------------------------------|
| Schulze        | 6,039,649        | Column display                     |
| Kamille        | 5,855,514        | Player quits when risk is too high |
| Brune et al.   | 5,851,148        | Bonus Meter                        |
| Koza et al.    | 4,582,324        | Illusion of skill game             |
| Fey            | N/A              | "Skill-Stop" machines              |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

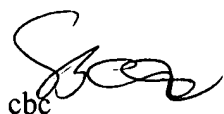
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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cbc

December 16, 2002

  
JESSICA HARRISON  
PRIMARY EXAMINER